

A3
DK

mitochondrial function, Na⁺-K⁺-ATPase protein expression, Na⁺-K⁺-ATPase protein activity and active Na⁺ transport.

REMARKS

Amendments

Claims 1, 2, 11 and 14 have been amended. Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "VERSION WITH MARKINGS TO SHOW CHANGES MADE"

Restriction Requirement

Applicants hereby elect Invention I, claims 1-4, 11-14 drawn to a method of using ascorbic acid, with traverse.

The Applicants hereby traverse the Restriction Requirement mailed January 17, 2002. The Examiner argues that Invention I is drawn to a method while Inventions II, III and IV are drawn to a composition, a second composition and a second method, respectively. The statements of the Examiner notwithstanding,

Applicants assert that the method of Invention IV as recited by claims 15-16 is a specific embodiment of the method of Invention I. Similarly, the compositions Inventions II and III are merely different aspects of the same embodiment, namely, a pharmaceutical composition using different carrier systems to target different parts of the body. Most importantly, Inventions I-IV have a basis for unity of invention, since all four inventions pertain to the recovery of cellular functions after injury by the administration of L-ascorbic acid or its salt to such injured cells.

From this basis, Applicants contend that since all 17 claims involve the use of a common compound to recover from cellular insults, it would not unduly burden the Examiner to perform a search encompassing the claims of Invention I whose compound used is the composition of Inventions II and III and identical to the compound in the methodology of Invention IV. A search of prior art directed to Invention I would necessarily reveal prior art related to the Inventions II, III and IV. Therefore, Applicants respectfully request that the Restriction Requirement be withdrawn and that claims 1-17 be examined together on their merits.

Further, Applicants traverse the requirement under 35 USC 121 to elect a single disclosed cellular function. 35 USC 121 is designed to prevent an invention from obtaining a patent term longer than that assigned by requiring that patents obtained through divisional applications filed on the same subject matter expire on the same date as the parent patent. The cellular functions illustrated by claims 2 and 14 each of which is not proper subject for a divisional application from elected Invention I. This is because in the event of injury, the cellular functions of claims 2 and 14 occur in a cascade to slow down and in severe cases terminate cell function. In an uninjured cell, all such cellular functions occur in unison to maintain viability. When a toxin is introduced, these same functions are simultaneously or sequentially disrupted. Thus, Applicants amended claims 1, 2, 11 and 14 to show such concordant cellular functions and respectfully request that the requirement to elect a single disclosed cellular function from Invention I be withdrawn.

This is intended to be a complete response to the Office Action mailed January 17, 2002. If any issues remain outstanding, the Examiner is respectfully requested to telephone the undersigned

attorney of record for immediate resolution. Should any additional fees be due, please debit Deposit Account 07-1185.

Respectfully submitted,

Date: 2/6/02



Benjamin Aaron Adler, Ph.D., J.D.
Registration No. 35,423
Counsel for Applicant

ADLER & ASSOCIATES
8011 Candle Lane
Houston, Texas 77071
(713) 270-5391
badler1@houston.rr.com

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claim 1 has been amended as follows:

1. (Amended) A method of cell recovering ~~cellular~~
~~functions in cells~~ following cellular injury, comprising the step of:
contacting injured ~~said~~ cells with ascorbic acid or a salt of
ascorbic acid.

Claim 2 has been amended as follows:

2. (Amended) The method of claim 1, wherein ~~said~~
~~cellular~~ injury ~~function selected from the group consisting of~~ is
manifested by the disruption of proliferation, mitochondrial function,
Na⁺-K⁺-ATPase protein expression, Na⁺-K⁺-ATPase protein activity
and active Na⁺ transport.

Claim 11 has been amended as follows:

11. (Amended) A method of cell recovering ~~cellular~~
~~functions~~ following cellular injury in an individual in need of such
treatment, comprising the step of:

RECEIVED
FEB 28 2002
TECH CENTER 1600/2900

administering a therapeutically effective amount of ascorbic acid or salt of ascorbic acid to said individual.

Claim 14 has been amended as follows:

14. (Amended) The method of claim 12, wherein said cellular injury function is manifested by the disruption selected from the group consisting of proliferation, mitochondrial function, $\text{Na}^+ \text{-K}^+$ -ATPase protein expression, $\text{Na}^+ \text{-K}^+$ -ATPase protein activity and active Na^+ transport.